

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CAPITAL DISTRICT PHYSICIANS'
HEALTH PLAN, INC.,

Plaintiff,

-against-

1:08-CV-979
(LEK/RFT)

THOMAS RYAN,

Defendant.

ORDER

On September 15, 2008, Defendant Thomas Ryan removed to federal court Plaintiff CDPHP's Verified Complaint, which alleged Ryan's misappropriation of confidential, proprietary information and documents from CDPHP, his former employer. Dkt. No. 1. On August 14, 2008, the New York Supreme Court, Saratoga County (Ferradino, J.) issued an *ex parte* temporary restraining order ("TRO") against Ryan, which was later narrowed/modified on consent of the parties. Dkt. No. 1, Att. 2. On September 16, 2008, Ryan brought a Motion before this Court seeking to vacate the state-issued TRO. Dkt. No. 3. On September 18, 2008, Plaintiff filed an Amended Complaint, withdrawing its fifth cause of action for violation of the Federal Computer Fraud and Abuse Act. Dkt. No. 7. Also on September 18, 2008, Plaintiff filed a cross-Motion seeking to remand the action to state court. Dkt. No. 12. The Court held a hearing on September 24, 2008 on both parties' Motions.

WHEREFORE, after having reviewed the submissions of both parties in this matter, the applicable law, and after considering the arguments of the parties at oral argument, it is hereby

ORDERED, that Defendant's Motion to vacate the temporary restraining order (Dkt. No. 3) is **DENIED**; and it is further

ORDERED, that Plaintiff's Motion to remand (Dkt. No. 12) is **GRANTED**; and it is further

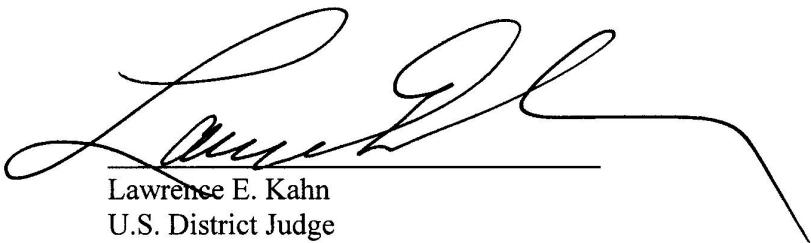
ORDERED, that the action is remanded to New York State Supreme Court, Saratoga County, for further proceedings, with the TRO in the same posture and effect as it was prior to Defendant's filing of the Notice of Removal; and it is further

ORDERED, that neither party shall be awarded costs on their respective motions; and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties.

IT IS SO ORDERED.

DATED: September 26, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge